

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

– *against* –

DONALD BLAKSTAD,

Defendant.

**ORDER**

19 Cr. 486 (ER)

RAMOS, D.J.:

Before the Court is Blakstad’s request for a continuance of the trial in this matter, which is scheduled to begin on Monday, June 14, 2021. The Court assumes familiarity with the background of this case. For the reasons discussed below, Blakstad’s motion is DENIED.

Trial courts have “broad discretion” to grant or deny a request to continue a trial. *See United States v. Stringer*, 730 F.3d 120, 127 (2d Cir. 2013). Blakstad’s request is based on alleged prejudice from the filing of Superseding Indictment S2 19 Cr. 486 on June 8, 2021 (“Indictment S2”). *See* Doc. 108. Indictment S2 was filed following the Government’s representation that it would be “streamlining, simplifying, and shortening the investment fraud case.” Doc. 100. To this end, Count 6 of Indictment S2, which alleges Conspiracy to Commit Securities Fraud and Wire Fraud, differs from Count 6 of the previous indictment in that it no longer contains references to several companies that Blakstad controlled, and no longer includes certain background information about his allegedly fraudulent acts.<sup>1</sup> Instead, as alleged in Indictment S2, Blakstad is solely accused of this conspiracy charge in general terms, and only one of his entities, Midcontinental Petroleum, is mentioned by name. *See* Doc. 108 at ¶ 59.a.

---

<sup>1</sup> Count 6 does, however, allege a violation of the same crime, Conspiracy to Commit Securities Fraud and Wire Fraud.

Accordingly, the Government has represented that it now intends only to offer proof that Blakstad misappropriated investor funds through one corporation, Midcontinental Petroleum, rather than offering proof of a fraudulent scheme involving three separate entities, as was alleged in the prior indictment. It argues that Blakstad therefore suffers no prejudice, because he has already been put on notice of the allegations involving Midcontinental Petroleum. Blakstad argues in response that Indictment S2 nevertheless constitutes a change of theory for the Government, to which he needs time to adequately prepare a defense. At a pretrial conference before the Court on June 10, 2021, counsel for Blakstad argued that the Government's narrowing of this case could compromise his ability to offer evidence of lawful business activity regarding Blakstad's other companies, or lawful conversations with investors.

The Court finds that Blakstad has not shown he is likely to be prejudiced by the denial of a continuance. It is true that, by narrowing the factual scope of Count 6 (and Count 7, which incorporates many of the allegations supporting Count 6 by reference), Indictment S2 may impact the evidence that Blakstad will offer. However, if—as Blakstad argues—there exists evidence of his lawful business dealings outside of Midcontinental Petroleum, and that evidence is relevant to the allegations of investor fraud, he is free to seek admission of that evidence pursuant to F.R.E. 401. Indeed, the Court would likely have faced similar evidentiary questions at trial under the previous indictment, as evidenced by the fact that the Government moved *in limine* to exclude evidence of lawful business dealings under F.R.E. 404(b) before Indictment S2 was filed. *See* Doc. 97 at 15. In any event, Blakstad has already been on notice that the Government intends to introduce evidence regarding allegedly fraudulent business dealings through Midcontinental Petroleum to prove Count 6, and Indictment S2 does not change this.<sup>2</sup>

---

<sup>2</sup> The Court notes that S2 also includes two additional “overt acts” in support of the Count 6 allegations, which were not alleged in Count 6 of the previous indictment. However, Blakstad's request is not predicated on this change.

For the reasons discussed, Blakstad has not shown that the narrowing of the Government's case against him will prejudice him so as to merit a continuance of his trial.

Blakstad's request is therefore DENIED.

It is SO ORDERED.

Dated: June 11, 2021  
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is positioned above a horizontal line.

---

EDGARDO RAMOS, U.S.D.J.